

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1613

Introduced by Assembly Member Stone

February 6, 2014

An act to amend Section 11004 of the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as amended, Stone. CalWORKs: benefits overpayment.

Existing law establishes various social services programs that provide cash assistance and other benefits to qualified low-income families and individuals, including the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Existing law requires applicants for, and recipients of, public social services ~~programs for which state grants-in-aid are made to counties~~ to accurately report facts material to eligibility and grant payment determinations. Existing law authorizes current and future grants payable to an assistance unit to be reduced because of prior overpayments, and requires grant payments to be reduced by 5% of the maximum aid payment when the overpayment was caused by agency error. Existing law prohibits a county from attempting, if an individual is no longer receiving ~~cash aid~~, *CalWORKs benefits*, to recover overpayments when the outstanding overpayments are less than \$35, and requires reasonable cost-effective efforts at collection to be implemented if the overpayment amounts owed are \$35 or more. Under existing law, however, a county is prohibited from establishing a CalWORKs overpayment based on any differences between the amount of income the county prospectively determined for the recipient and the income the recipient actually

received, if the recipient's report was complete and accurate. *Existing law provides that no civil or criminal action may be commenced against a person based on alleged unlawful application for or receipt of public social services if the case record of the person has been destroyed after the required retention period.*

~~This bill would specify that these overpayment provisions apply only to grants of CalWORKs cash aid. The bill would instead require grant payments to be reduced by 5% of the monthly payment in cases where the overpayment was caused by agency error and the amount to be collected is greater than an established minimum cost-effectiveness threshold or if the recipient would not be able to claim an equitable estoppel defense. The bill would prohibit the attempt to recover overpayment if the costs of collecting the outstanding overpayments are expected to exceed the amount to be recovered by the county. The bill would require reasonable cost-effective efforts to be implemented in all cases of recovering overpayments and authorizes the State Department of Social Services to establish an annual minimum cost-effectiveness threshold for collecting overpayments of cash aid. By increasing the duties of county agencies, this bill would create a state-mandated local program.~~

This bill would authorize the State Department of Social Services to establish a minimum cost-effectiveness threshold, as specified, for collecting an overpayment established under CalWORKs that is greater than \$125, and would require counties to implement the new threshold if one is established by the department pursuant to these provisions. The bill would prohibit a county from establishing an overpayment if the costs of collecting the outstanding payments are expected to exceed the average amounts to be recovered by the county, or the amount of the overpayment is less than \$125, or the minimum cost-effectiveness threshold, whichever is greater. The bill would prohibit a county from attempting to recover CalWORKs overpayments if an individual is no longer receiving CalWORKs benefits and the outstanding overpayments are less than \$125, or the minimum cost-effectiveness threshold, whichever is greater. The bill would also prohibit a civil, administrative, or criminal action against a person based on alleged unlawful or erroneous application for or receipt of public social services if the case record of the person has been destroyed after the required retention period. By increasing the duties of county agencies, this bill would create a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would instead provide that the continuous appropriation would not be made for purposes of implementing the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11004 of the Welfare and Institutions
2 Code is amended to read:
3 11004. (a) The provisions of this code relative to public social
4 services for which state grants-in-aid are made to the counties shall
5 be administered fairly to the end that all persons who are eligible
6 and apply for such public social services shall receive the assistance
7 to which they are entitled promptly, with due consideration for the
8 needs of applicants and the safeguarding of public funds.
9 ~~(a)~~
10 (b) Any applicant for, or recipient or payee of, such public social
11 services shall be informed as to the provisions of eligibility and
12 his or her responsibility for reporting facts material to a correct
13 determination of eligibility and grant.
14 ~~(b)~~
15 (c) Any applicant for, or recipient or payee of, such public social
16 services shall be responsible for reporting accurately and
17 completely within his or her competence those facts required of
18 him or her pursuant to subdivision-~~(a)~~ (b) and to report promptly
19 any changes in those facts.
20 ~~(c)~~
21 (d) (1) Current and future grants payable to an assistance unit
22 may be reduced because of prior overpayments. In cases where
23 the overpayment was caused by agency error, grant payments shall
24 be reduced by 5 percent of the maximum aid payment of the

1 assistance unit. Grant payments to be adjusted because of prior
2 overpayments because of any other reason shall be reduced by 10
3 percent of the maximum aid payments for the assistance unit. A
4 recipient may have an overpayment adjustment in excess of the
5 amounts allowable under this section if the recipient requests it.

6 *(2) A county shall not establish an overpayment if at least one*
7 *of the following conditions is met:*

8 *(A) The costs of collecting the outstanding overpayments are*
9 *expected to exceed the average amounts to be recovered by the*
10 *county.*

11 *(B) The amount of the overpayment is less than one hundred*
12 *twenty-five dollars (\$125) or the minimum cost-effectiveness*
13 *threshold established by the department pursuant to subdivision*
14 *(n), whichever is greater.*

15 ~~(d)~~

16 *(e) No determination of ineligibility shall be made*
17 *retrospectively so as to result in an assessment of an overpayment*
18 *in circumstances where there is a failure on the part of an applicant*
19 *or recipient to perform an act constituting a condition of eligibility,*
20 *if the failure is caused by an error made by a state agency or a*
21 *county welfare department, and if the amount of the grant received*
22 *by the applicant or recipient would not have been different had*
23 *the act been performed.*

24 ~~(e)~~

25 *(f) Prior to effectuating any reduction of current grants to recover*
26 *past overpayments, the recipient shall be advised of the proposed*
27 *reduction and of his or her entitlement to a hearing on the propriety*
28 *of the reduction.*

29 ~~(f)~~

30 *(g) If the department determines after a hearing that an*
31 *overpayment has occurred, the county providing the public social*
32 *services shall seek to recover in accordance with subdivision-(e)*
33 *(d) the full amount of the overpayment to the assistance unit,*
34 *including any amount paid while the hearing process was pending.*
35 ~~Such~~ *This adjustment shall be permitted concurrently with any*
36 *suit for restitution, and recovery of overpayment by adjustment*
37 *shall reduce by the amount of—such the recovery the extent of*
38 *liability for restitution.*

39 ~~(g)~~

(h) If the individual is no longer receiving aid under Chapter 2 (commencing with Section 11200), recovery of overpayments received under that chapter shall not be attempted where the outstanding overpayments are less than ~~thirty-five dollars (\$35)~~. ~~Where one hundred twenty-five dollars (\$125) or the minimum cost-effectiveness threshold established by the department pursuant to subdivision (n), whichever is greater. If the overpayment amounts owed are thirty-five dollars (\$35) or more, exceed one hundred twenty-five dollars (\$125) or the minimum cost-effectiveness threshold established by the department pursuant to subdivision (n), if that amount is greater,~~ reasonable cost-effective efforts at collection shall be implemented. Reasonable efforts shall include notification of the amount of the overpayment and that repayment is required. The department shall define reasonable cost-effective collection methods. In cases involving fraud, every effort shall be made to collect the overpayments regardless of the amount.

~~(h)~~

(i) If the individual responsible for the overpayment to the assistance unit is no longer eligible for public social services or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both.

~~(i)~~

(j) Where an overpayment has been made to an assistance unit ~~which~~ *that* is no longer receiving public social services, recovery shall be made by appropriate action under state law against the income or resources of the individual responsible for the overpayment or against the family.

~~(j)~~

(k) No civil ~~or~~, *administrative, or* criminal action may be commenced against any person based on alleged unlawful *or erroneous* application for or receipt of public social services, ~~where~~ *if* the case record of ~~such~~ *that* person has been destroyed after the expiration of the ~~four-year~~ *three-year* retention period pursuant to Section 10851.

~~(k)~~

(l) (1) When an underpayment or denial of public social service occurs and as a result the applicant or recipient does not receive the amount to which he or she is entitled, the county shall provide

1 public social services equal to the full amount of the underpayment
2 unless prohibited by federal law. In cases that have both an
3 underpayment and an overpayment, the underpayment shall be
4 offset against the overpayment prior to correcting any remaining
5 underpayment.

6 ~~Any~~

7 (2) *Any* corrective payments made pursuant to this subdivision
8 shall be disregarded in determining the income of the family and
9 shall be disregarded in determining the resources of the family in
10 the month the corrective payment is made and in the following
11 month.

12 ~~(f)~~

13 (m) This subdivision shall be applicable only to applicants,
14 recipients and payees under Chapter 2 (commencing with Section
15 11200) of Part 3 of Division 9. Any suits to recover overpayments
16 described in subdivision ~~(f)~~ (g) shall be brought on behalf of the
17 county by the county counsel unless the board of supervisors
18 delegates such duty to the district attorney by ordinance or
19 resolution.

20 (n) *The department may establish a minimum cost-effectiveness*
21 *threshold consistent with Part 225 of Title 2 of the Code of Federal*
22 *Regulations for collecting an overpayment established under*
23 *Chapter 2 (commencing with Section 11200) that is greater than*
24 *one hundred twenty-five dollars (\$125). If the department*
25 *establishes such a threshold, each county shall implement the new*
26 *threshold.*

27 *SEC. 2. No appropriation pursuant to Section 15200 of the*
28 *Welfare and Institutions Code shall be made for purposes of this*
29 *act.*

30 *SEC. 3. If the Commission on State Mandates determines that*
31 *this act contains costs mandated by the state, reimbursement to*
32 *local agencies and school districts for those costs shall be made*
33 *pursuant to Part 7 (commencing with Section 17500) of Division*
34 *4 of Title 2 of the Government Code.*

35 ~~SECTION 1. Section 11004 of the Welfare and Institutions~~
36 ~~Code is amended to read:~~

37 ~~11004. (a) The provisions of this code relative to cash aid~~
38 ~~provided pursuant to Chapter 2 (commencing with Section 11200)~~
39 ~~shall be administered fairly to the end that all persons who are~~
40 ~~eligible and apply for cash aid shall receive the assistance to which~~

1 they are entitled promptly, with due consideration for the needs
2 of applicants and the safeguarding of public funds.

3 (b) ~~An applicant for, or recipient or payee of, cash aid provided~~
4 ~~pursuant to Chapter 2 (commencing with Section 11200) shall be~~
5 ~~informed as to the provisions of eligibility and his or her~~
6 ~~responsibility for reporting facts material to a correct determination~~
7 ~~of eligibility and grant.~~

8 (c) ~~An applicant for, or recipient or payee of, cash aid provided~~
9 ~~pursuant to Chapter 2 (commencing with Section 11200) shall be~~
10 ~~responsible for reporting accurately and completely within his or~~
11 ~~her competence those facts required of him or her pursuant to~~
12 ~~subdivision (b) and to report promptly any changes in those facts.~~

13 (d) ~~Current and future grants payable to an assistance unit may~~
14 ~~be reduced because of prior overpayments, unless the agency is~~
15 ~~prohibited from requiring the collection of, or establishing, the~~
16 ~~overpayment pursuant to subdivision (h) of this section or~~
17 ~~subdivision (b) of Section 11004.1. In cases where the overpayment~~
18 ~~was caused by agency error, and the amount to be recovered is~~
19 ~~greater than the minimum cost-effectiveness threshold established~~
20 ~~pursuant to subdivision (h) or if the recipient would not be able to~~
21 ~~claim an equitable estoppel defense, grant payments shall be~~
22 ~~reduced by 5 percent of the monthly payment of the assistance~~
23 ~~unit. Grant payments to be adjusted because of prior overpayments~~
24 ~~for any other reason shall be reduced by 10 percent of the~~
25 ~~maximum aid payments for the assistance unit. A recipient may~~
26 ~~have an overpayment adjustment in excess of the amounts~~
27 ~~allowable under this section if the recipient requests it.~~

28 (e) ~~A determination of ineligibility shall not be made~~
29 ~~retrospectively so as to result in an assessment of an overpayment~~
30 ~~in circumstances when there is a failure on the part of an applicant~~
31 ~~or recipient to perform an act constituting a condition of eligibility;~~
32 ~~if the failure is caused by an error made by a state agency or a~~
33 ~~county welfare department, and if the amount of the grant received~~
34 ~~by the applicant or recipient would not have been different had~~
35 ~~the act been performed.~~

36 (f) ~~Prior to effectuating any reduction of current grants to recover~~
37 ~~past overpayments, the recipient shall be advised of the proposed~~
38 ~~reduction and his or her entitlement to a hearing on the propriety~~
39 ~~of the reduction.~~

~~(g) If the department determines after a hearing that an overpayment has occurred, the county providing the cash aid pursuant to Chapter 2 (commencing with Section 11200) shall seek to recover in accordance with subdivision (d) the full amount of the overpayment to the assistance unit, including any amount paid while the hearing process was pending. This adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of the recovery the extent of liability for restitution.~~

~~(h) Regardless of whether the individual is currently receiving aid under Chapter 2 (commencing with Section 11200), recovery of overpayments received under that chapter shall not be attempted if the cost of collecting the outstanding overpayments are expected to exceed the amount to be recovered by the county, unless otherwise required in this section. In all cases, reasonable cost-effective efforts at collection shall be implemented. The department shall define reasonable cost-effective collection methods, and may establish an annual minimum cost-effectiveness threshold for collecting overpayments of cash aid. In cases involving fraud, every effort shall be made to collect the overpayments regardless of the amount.~~

~~(i) If the individual responsible for the overpayment to the assistance unit is no longer eligible for cash aid provided pursuant to Chapter 2 (commencing with Section 11200), or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both.~~

~~(j) When an overpayment has been made to an assistance unit that is no longer receiving cash aid provided pursuant to Chapter 2 (commencing with Section 11200), recovery shall be made by appropriate action under state law against the income or resources of the individual responsible for the overpayment or against the family.~~

~~(k) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of cash aid provided pursuant to Chapter 2 (commencing with Section 11200), if the case record of that person has been destroyed after the expiration of the three-year retention period specified in Section 10851.~~

~~(f) (1) When an underpayment or denial of cash aid provided pursuant to Chapter 2 (commencing with Section 11200) occurs and as a result the applicant or recipient does not receive the amount to which he or she is entitled, the county shall provide cash aid equal to the full amount of the underpayment unless prohibited by federal law. In cases that have both an underpayment and an overpayment, the underpayment shall be offset against the overpayment prior to correcting any remaining underpayment.~~

~~(2) Any corrective payments made pursuant to this subdivision shall be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.~~

~~(m) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200). Any suits to recover overpayments described in subdivision (g) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates this duty to the district attorney by ordinance or resolution.~~

~~SEC. 2. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of this act.~~

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~